



Board

Present Janet E. Jackson, Chair
Present Brooke Burns, Vice Chair
Present Stuart Aragon
Present Mark Fluharty
Present Dr. Chenelle Jones
Present Willard McIntosh, Jr.
Present Pastor Richard Nathan
Present Kyle Strickland
Present Rev. Charles Tatum
Absent Aaron Thomas
Present Mary Younger

Guests

Present Lara Baker-Morrish
Present Richard Blunt
Present Colleen Dunne
Present Jeffrey Furbee
Present Kate Pishotti
Present George Speaks
Present Robert Tobias

MEETING MINUTES

WELCOME

At 2:02pm, Chair Janet Jackson welcomed the Columbus Civilian Police Review Board ("CPRB") to the meeting. Aaron Thomas was traveling and had an excused absence.

STUART ARAGON INTRODUCTION

Chair Jackson welcomed Stuart Aragon, the most recently appointed Board Member, and asked him and the other Board Members to introduce themselves.

Note: De-escalation training was dropped from the December meeting's agenda due to an administrative error, and will be added to the January agenda.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Mark Fluharty moved to approve the November meeting minutes, and Pastor Rich Nathan seconded. The minutes were approved by a unanimous vote.

INSPECTOR GENERAL UPDATE

Chair Jackson informed the Board that she met with Robert Burg from Ralph Andersen, and he indicated that he would be screening each applicant in order to narrow the candidate list. The interviewing committee will include: Brooke Burns, Mark Fluharty, Willard McIntosh, and Kyle Strickland in addition to the Chair. Interviews will be virtual in January, likely including 6-7 applicants. Select community members will be invited to participate in virtual interviews with the top candidates as well, and there





could potentially be a virtual town hall. Once the field is narrowed to 2-3 candidates, there will be in-person interviews with the entire CPRB.

REPORT FROM COMMITTEE ON MEDIA INQUIRIES

Pastor Nathan, Dr. Chenelle Jones, Kyle Strickland, and Brooke Burns have finished their work on the policy. Media training will be provided to the Board, but likely after the Inspector General is in place and able to participate as well. Chair Jackson asked the Board if all were comfortable with the language as drafted.

Mr. Strickland commented that this document could be a guiding principle of how Members should interact with the media and public. Individuals should be able to express their opinions without speaking on the behalf of or compromising the integrity of the Board.

Pastor Nathan noted that the new language on page two is the main difference from the original text. The committee wanted to protect the 1st amendment rights of Board Members while also recognizing that the Board must adopt self-imposed limits to represent to the community that the Board is acting with integrity and impartiality. No Board Member should display advocacy or partiality on a Board issue, as community members could see individuals as representing the Board's opinion as a whole.

Mr. Fluharty asked the Chair if this document was the working group's recommendation, as he is in agreement with the language. She confirmed.

Mr. Aragon asked if there was the possibility for this document to be amended in the future if the need arose. Chair Jackson agreed that this is a possibility in the future.

Rev. Charles Tatum voiced the concern that any Board Member sharing a personal opinion should be specific and choose words carefully, as a precaution. Chair Jackson reminded the Board that they are not compelled to speak at any time on any subject. Any questions can be directed to the communications team in the Mayor's office as stated in the policy.

Pastor Nathan highlighted the text which states no Board Member is required to speak to the media or public.

Mr. Aragon questioned if the document was referring to future cases in front of the Board. Chair Jackson confirmed.

Mr. Strickland reminded the group that the language is deliberately general to be encompassing of a variety of future matters. Chair Jackson suggested all members be overly cautious.





Chair Jackson brought up the subject of meeting attendance and training being presented at meetings. If any Board Member misses a meeting at which training occurs, the Board Member must review the video of the training and inform the Chair that they have done so.

LEGAL TRAINING

Chair Jackson introduced Jeff Furbee, Assistant City Attorney, and gave him the floor. Mr. Furbee elaborated that he is in-house counsel for the Division of Police. His role is to give objective legal advice to the CPD. He has a history as a prosecuting attorney, civil litigator, and in private practice in addition to his lengthy service in the City Attorney's Office.

Mr. Furbee mentioned seeing the evolution of policing during his tenure, reacting to the environment on the streets and local/national/world events. Post-9/11, officers were given a great deal of leeway. Now, the proliferation of videos has changed the perception of police. The United States and Ohio have had very "pro-police" courts for a long time, and there are a lot of things the police are legally allowed to do which the community may not agree with. Officers undergo legal training on search and seizure, use of force, and testifying as well as their situational training. Every officer on every shift receives training every year. Every time an officer is promoted, they receive training.

Modern police officers have to know a lot, and it's difficult to learn. Officers often express a desire for more time in training to cover the material. Legal updates are shared with officers monthly, addressing changes, trends or frequently asked questions. Every officer has to sign off on reading every update. Emergency updates are sent out as needed.

The 4th Amendment is designed to protect society from the government, and thereby the police. Search and/or arrest warrants supported by probable cause are required for arrests, searches, and seizures. Recruits get this training early.

The 4th Amendment regulates all interactions between the police and citizens. Any detention of a citizen or use of force is a 4th Amendment seizure. This impacts everything officers do regarding citizens. Every stop has to be justified.

What is/is not a search/covered by the 4th Amendment:

- Looking in someone's car windows in a public parking lot – no reasonable expectation of privacy
- Entering someone's yard surrounded by a privacy fence – violation

Most complaints and issues with the police stem from Terry stops – encounters that are more intrusive than a consensual encounter, but less so than an arrest.

Citizens should only be detained long enough to develop probable cause for arrest, or they should be released. Terry stops should generally not involve a pat down. Ms. Younger mentioned that officers usually ask for permission to pat a person down as a way to skirt this rule. Mr. Furbee agreed, some officers will ask for consent to pat down during a detention, but stated that consent may be given during





such an encounter if given freely and voluntarily. Ms. Younger asked what would happen if the officer asks for consent and is denied. Mr. Furbee said that officers are trained that a decline or refusal to consent does not amount to reasonable suspicion. Officers are shown videos of good, bad, and ugly police behavior as a learning tool.

Mr. Aragon asked about the length of a Terry stop, and what is a reasonable time frame? Mr. Furbee informed the Board that the Supreme Court never put a number to the law. The officer has to be diligently investigating, and once they are out of things to investigate, they must either release the suspect or make an arrest. Most are within 5-10 minutes, but some are longer. 6th Circuit courts have upheld Terry stops as long as an hour, depending on the circumstances.

Chair Jackson asked about the increased use of body camera videos, is the City Attorney's Office required to review them all? Mr. Furbee said that reviews only occur when there are questions or concerns, lawsuits, or if the academy staff sees training issues. Most videos are uneventful, so he only sees them when there are problems, generally.

Ms. Younger mentioned stopping someone for having a taillight out and then asking to search the car, finding a weapon in the trunk. Mr. Furbee said that the courts allow officers to ask someone during a traffic stop a limited number of questions unrelated to the reason for the stop.

Pastor Nathan asked if any single indicator of a seizure escalates a consensual encounter, or if multiple markers must be present. Mr. Furbee indicated some are clearer than others (e.g. brandishing a weapon) but the language and tone of voice are more ambiguous. Any show of force or use of force will escalate the encounter. Everything should be a request and voices shouldn't be raised.

Mr. Fluharty asked for confirmation that if a police officer requests to search a vehicle during a traffic stop, and the citizen says no, and then the officer calls for a K9 unit, the officer has only the length of time it takes to write the ticket to get the dog on site. Mr. Furbee confirmed that is correct.

BREAK

Chair Jackson called for a break at 3:22pm.

LEGAL TRAINING CONTINUED

The Board reconvened at 3:40pm.

Pastor Nathan asked if the standard of reasonableness is objective, Mr. Furbee confirmed. How would a reasonable officer in that situation have handled that situation? Pastor Nathan asked if other officers are brought in to confirm the response was what they would have done. Mr. Furbee said sometimes a trainer will be brought in to confirm the actions were aligned with the officer's training.

Mr. Aragon asked about who in a household is able to provide consent. Mr. Furbee said anyone who has joint authority and control over the household may consent. Officers have a duty to ensure the





person providing consent has the authority to do so. Mr. Aragon asked if there is an age limit, and Mr. Furbee said that there is not, but the younger the juvenile, the less likely they are to be trusted to provide consent. Less than 18, courts are going to take a hard look. Less than 17, courts are going to be extremely skeptical.

Ms. Younger posed a scenario in which a parent gives permission for an officer to search the house, but an 18-year-old lives there. Is the 18-year-old's room legally searchable? Mr. Furbee explained that one person cannot waive the rights of another person – as long as the person is of legal age. The parent cannot override the rights of the 18-year old if the 18-year old objects to the search. However, if the parent has joint authority and control, and the 18-year old is not present, or doesn't object, the parent may consent. If it's a juvenile, the parent can basically always give consent on their behalf.

Rev. Tatum asked about spitting on someone. Mr. Furbee said that spitting on an officer is a felony – assault with a bodily substance - and also falls under the physical contact category which violates the officers' rights.

Mr. Aragon asked about recording the police. Mr. Furbee explained that filming officers and other government officials in the discharge of their duties is a highly protected first amendment right. An officer ordering someone to stop filming is violating the videographer's first amendment rights. Officers can only order the person to back up to a safe distance in a dangerous situation.

Mr. Aragon asked about a new trend of officers playing copyrighted music as a way of preventing video footage of them being shared. Mr. Furbee said officers shouldn't be playing music, it wouldn't be appropriate. Directives from individual divisions could eliminate that behavior. The directives of CPD are reviewed at least every 3 years for legality, which helps maintain the Division's CALEA (Commission on Accreditation for Law Enforcement Agencies) certification.

Mr. Strickland mentioned the CPRB's responsibility to affect policies to proactively improve policing in Columbus, and asked if there are any trends they should specifically watch for. Mr. Furbee mentioned use of force and use of deadly force being at the forefront of everyone's attention presently. CPD has good training, but there are other models in the world that bear review. Every big city has a number of deadly force cases each year, but should always strive to reduce that number, while still protecting officers.

NEW BUSINESS

Rev Tatum asked about the newly formed committees, as he missed the last meeting. Are there any descriptions or guidelines for the committees? Chair Jackson alerted him that the nominating committee, of which he is chair, will not have work to do until the officer terms are up in 2022. She reminded the Board that all committees should have an initial meeting no later than January 2022.





Chair Jackson asked if the Board has any specific topics they want to address in the upcoming meetings, as she is trying to fill agendas with mandatory trainings where possible. The next meeting is January 4th, and Board members might be out for the holiday. Please let her know in advance if so.

ADJOURNMENT

Chair Jackson asked for a motion to adjourn at 4:44pm. Mr. Fluharty moved, Mr. Strickland seconded. Unanimous vote to adjourn.

